**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929**

**WP(C).No. 33712 of 2007(L)**

**(OS. NO. 315/2006 OF MUNSIFF COURT, VAIKOM.**

**PETITIONERS:**

1. **CHANDRAN, S/O.PARAMESWARAN, KANIPARAMBIL HOUSE, IRUMBOOZHIKARA MURI, VADAKUMURI VILLAGE, VAIKOM TALUK.**
2. **SATHYAN, S/O.PARAMESWARAN, KANIPARAMBIL HOUSE, IRUMBOOZHIKARA MURI, VADAKUMURI VILLAGE,VAIKOM TALUK.**
3. **SOMAN, S/O.KRISHNAN, KARIPAYIL HOUSE, IRUMBOOZHIKARA MURI, VADAKUMURI VILLAGE, VAIKOM TALUK.**

**BY ADV. SRI.G.SREEKUMAR (CHELUR).**

**RESPONDENTS:**

1. **DEEPA, D/O.MADHAVAN, KARIPAYIL HOUSE, IRUMBOOZHIKARA KARA, VADAKUMURI VILLAGE, VAIKOM TALUK.**
2. **BHAVANI, W/O.MADHAVAN, KARIPAYIL HOUSE, IRUMBOOZHIKARA KARA, VADAKUMURI VILLAGE, VAIKOM TALUK.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N.KRISHNAN, J**

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**W.P.(C) No.33712 OF 2007**

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**Dated this the 15th day of November 2007**

**JUDGMENT**

This writ petition is filed seeking to set aside the order passed by the Munsiff's Court, Vaikom in an application for amendment of the written statement in O.S.No.315 of 2006. Defendants wanted to substitute the words.....to .. ..... .....". So by the proposed amendment, defendants want to put up a contention that there was only an attempt to change the passage and there was no change of passage. I had carefully gone through paragraphs 5 and 6 of the written statement to find out whether it was an accidental or clerical omission which can be corrected. But a reading of the same would reveal that on account of the intervention of the mediators as it cause difficulty for enjoyment of the property, the passage was slightly shifted and that is reiterated in paragraph 6 of the written statement as well. So, permitting the party to totally deviate from the original pleadings at this stage may not be correct. Therefore, I do not find any error committed by the court below in dismissing the application for amendment. But, at the

same time, I make it clear that defendants can be permitted to adduce evidence on the contention whether the pathway is in existence as it exists on today or there had been any change in the position.

With these observations, the writ petition is dismissed.

**M.N.KRISHNAN, JUDGE**

**Cdp/-**